

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

---

UNITED STATES OF AMERICA,

Case No. 1:00-CR-15-01

Plaintiff,

Hon. Richard Alan Enslen

v.

SERGIO SIFUENTES,

**ORDER**

Defendant. /

This matter is before the Court on Defendant Sergio Sifuentes' Motion for Copies. Defendant states that he is contemplating a habeas corpus action under 28 U.S.C. § 2241 on the grounds that: (1) he was not responsible for the amount of drugs he was charged with; (2) the relevant conduct was wrongly attributed to him; (3) the jury instructions were improper and implied guilt; and (4) there was insufficient evidence to support a conviction of conspiracy.

The Supreme Court has "specifically held that there is no constitutional necessity, at least absent a showing of particularized need, to provide a free transcript to a prisoner who requests it in order to prepare a post-conviction motion." *Boone v. Weizel*, 917 F. Supp. 518, 520 (6th Cir. 1996) (citing *United States v. MacCollom*, 426 U.S. 317 (1976)). Therefore, a petitioner does not possess an automatic right to access to a trial transcript at tax payers' expense, a prisoner is only entitled to a transcript with no charge if a district judge certifies his asserted claim is "not frivolous" and that the transcript is needed to decide the issue. *MacCollom*, 426 U.S. at 326; see 28 U.S.C. § 753(f) (trial judge or circuit judge must certify that "the appeal is not frivolous (but presents a substantial question).")

After review of Defendant's allegations, the Court, in its discretion, declines to certify those claims as "not frivolous" and finds they do not present a substantial question as required under §

753(f). Indeed, Defendant has merely set forth conclusory statements rather than a showing of particularized need.

**THEREFORE, IT IS HEREBY ORDERED** that Defendant Sergio Sifuentes' Motion for Copies (Dkt. No. 278) is **DENIED**.

DATED in Kalamazoo, MI:  
November 14, 2006

/s/ Richard Alan Enslen  
RICHARD ALAN ENSLEN  
SENIOR UNITED STATES DISTRICT JUDGE